

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED

FEB 28 2018

Clerk, U.S. Courts
District Of Montana
Missoula Division

ROBERT MYERS,

Plaintiff,

vs.

WILLIAM E. FULBRIGHT, in his
official capacity as the County
Attorney for Ravalli County;
TIMOTHY C. FOX, in his official
capacity as Attorney General for the
State of Montana,

Defendants.

CV 17-59-M-DWM-JCL

ORDER

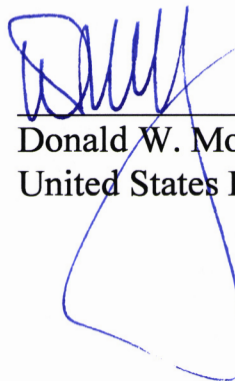
United States Magistrate Judge Lynch entered a Findings and Recommendation on January 30, 2018, recommending the Court deny the defendants' motion to dismiss this action for lack of standing pursuant to Federal Rule of Civil Procedure 12(b)(1). (Doc. 38.) Because no objections were filed, Judge Lynch's conclusions are reviewed for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *Concrete Pipe & Prods. of Cal., Inc. v. Constr. Laborers*

Pension Trust for S. Cal., 508 U.S. 602, 623 (1993) (internal quotation marks omitted). Judge Lynch did not clearly err in determining that Plaintiff Robert Myers has Article III standing to bring both his as-applied and facial challenges to Montana's criminal defamation statute, Mont. Code Ann. § 45-8-212.

Accordingly, IT IS ORDERED that Judge Lynch's Findings and Recommendation (Doc. 38) is ADOPTED-IN-FULL.

IT IS FURTHER ORDERED that the defendants' motion to dismiss (Doc. 13) is DENIED.

Dated this 20th day of February, 2018.

A handwritten signature in blue ink, appearing to read 'DMolloy', is written over a horizontal line. Below the line, the name and title of the signatory are printed.

Donald W. Molloy, District Judge
United States District Court